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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 181010932-9124-02]

RIN 0648-XG562

Fisheries of the Northeastern United States; Atlantic Bluefish Fishery; 2019 Bluefish Specifications

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues final specifications for the 2019 Atlantic bluefish fishery.

This action establishes allowable harvest levels for the bluefish stock, to prevent overfishing while allowing optimum yield, consistent with the Magnuson-Stevens Fishery Conservation and Management Act and the Atlantic Bluefish Fishery Management Plan. This rule is also intended to inform the public of these specifications for the 2019 fishing year.

DATES: Effective *[insert date of publication in the FEDERAL REGISTER]*, through December 31, 2019.

ADDRESSES: Copies of these specifications, including the Supplemental Information Report, and other supporting documents for the action, are available upon request from

Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 N. State Street, Dover, DE 19901. These documents are also accessible via the Internet at <http://www.mafmc.org>.

FOR FURTHER INFORMATION CONTACT: Cynthia Ferrio, Fishery Management Specialist, (978) 281-9180.

SUPPLEMENTARY INFORMATION:

Background

The bluefish fishery is jointly managed by the Mid-Atlantic Fishery Management Council and the Atlantic States Marine Fisheries Commission under the Atlantic Bluefish Fishery Management Plan (FMP). The FMP requires the specification of the acceptable biological catch (ABC), annual catch limit (ACL), annual catch targets (ACT), commercial quotas, recreational harvest limit, and other management measures, for up to three years at a time. This action implements final 2019 specifications for the bluefish fishery, which are very similar to 2018. The bluefish stock will undergo an operational assessment in mid-2019 that is designed to incorporate updated Marine Recreational Information Program information. It is expected that the 2020 specifications will be developed using this assessment.

The proposed rule for this action published in the **Federal Register** on December 26, 2018 (83 FR 66234), and public comments were accepted through January 10, 2019. Additional background information regarding the development of these specifications was provided in the proposed rule and is not repeated here.

Final Specifications

This action implements the 2019 Atlantic bluefish specifications (Table 1), as outlined in the proposed rule. Because the most recent data update indicated that the bluefish stock is not overfished and overfishing is not occurring, the 2019 specifications are very similar to 2018, with only minor adjustments to the final commercial quota and recreational harvest limit to account for the most recent full year of recreational catch data (2017), and an adjusted sector transfer. All other management measures, including the recreational possession limit of 15 fish per person, remain unchanged. For more information on the Council's recommendations and decisionmaking process, please see the proposed rule (83 FR 66234).

Table 1 - Summary of Final 2019 Bluefish Specifications

	Final 2019 Specifications	
	pounds	metric tons
Overfishing Limit	27,972,252	12,688
ABC = ACL	21,814,741	9,895
Commercial ACT	3,708,175	1,682
Recreational ACT	18,106,565	8,213
Commercial TAL	3,708,175	1,682
Recreational TAL	15,615,342	7,083
Sector Transfer	3,999,185	1,814
Commercial Quota	7,709,565	3,497
Recreational Harvest Limit	11,620,566	5,271

Table 2 provides the commercial fishery state allocations for 2019 based on the final 2019 coast-wide commercial quota and the allocated percentages defined in the FMP. No states exceeded their state allocated quota in 2018; therefore, no accountability measures need to be implemented for the 2019 fishing year.

Table 2 - 2019 Bluefish State Commercial Quota Allocations

State	Percent Share	Quota Allocation (lb)	Quota Allocation (mt)
Maine	0.67	51,538	23.38
New Hampshire	0.41	31,956	14.49
Massachusetts	6.72	517,828	234.88
Rhode Island	6.81	524,874	238.08
Connecticut	1.27	97,626	44.28
New York	10.39	800,645	363.17
New Jersey	14.82	1,142,264	518.12
Delaware	1.88	144,801	65.68
Maryland	3.00	231,426	104.97
Virginia	11.88	915,857	415.43
North Carolina	32.06	2,471,746	1121.17
South Carolina	0.04	2,714	1.23
Georgia	0.01	732	0.33
Florida	10.06	775,558	351.79
Total	100.00	7,709,565	3,497.00

Comments

The public comment period for the proposed rule ended on January 10, 2019. One comment received from the public claimed rampant overfishing in the bluefish fishery is occurring due to widespread corruption and commercial profiteering. However, this commenter presented no rationale or evidence supporting these claims, and the most recent assessment updates indicate that the bluefish stock is not overfished and overfishing is not occurring. No changes to the proposed specifications were made as a result of this comment.

Changes from the Proposed Rule

There are no changes from the proposed rule.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with the Bluefish FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

This final rule is exempt from review under Executive Order 12866 because this action contains no implementing regulations.

This final rule does not duplicate, conflict, or overlap with any existing Federal rules.

This action does not contain a collection of information requirement for purposes of the Paperwork Reduction Act.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification, and the initial certification remains unchanged. As a result, a final regulatory flexibility analysis is not required and none has been prepared.

The Assistant Administrator for Fisheries, NOAA, finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay of effectiveness period for this rule, to ensure that the final specifications are in place as close as practicable to the start of the 2019 Atlantic bluefish fishing year, which began on January 1, 2019. This action establishes the final specifications (*i.e.*, annual catch limits) for the bluefish fishery for the 2019

fishing year. A delay in effectiveness well beyond the start of the 2019 fishing year would be contrary to the public interest, as it could create confusion in the commercial bluefish industry.

This rule is being issued at the earliest possible date. The proposed rule was prepared and published in December 2018, and the public comment period ended on January 10, 2019. The partial Federal government shutdown prevented any work on this action from December 22, 2018, through January 25, 2019. We had expected to prepare and publish this final rule in January but were unable to do so because of the shutdown. A 30-day delay in effectiveness would only prolong the amount of time the bluefish fishery is forced to function in the 2019 fishing year without established specifications, which is contrary to the public interest.

Furthermore, regulated parties do not require any additional time to come into compliance with this rule, and thus, a 30-day delay does not provide any benefit. Unlike actions that require an adjustment period to comply with new rules, bluefish fishery participants will not have to purchase new equipment or otherwise expend time or money to comply with these status quo management measures. Rather, complying with this final rule simply means adhering to the catch limits and management measures set for bluefish fishing year 2019. Therefore, there would be no benefit to delaying the implementation of these specifications.

For these reasons, a 30-day delay in effectiveness would be contrary to the public interest, and is therefore waived. As a result, there is good cause to implement these specifications on *[insert date of publication in the FEDERAL REGISTER]*.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 7, 2019.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

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